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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/031,815

01/17/2002

David Layden

501737

8176

23626 7590 03/28/2005
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EXAMINER

TIBBITS, PIA FLORENCE

ART UNIT

PAPER NUMBER

2838

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,815

Applicant(s)

LAYDEN ET AL

Examiner

Pia F. Tibbits

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2002 and 27 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-59 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 57, 57, and 58 have been renumbered 57, 58 and 59.

Election/Restriction

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

I. Claims 1-27, drawn to a method and apparatus for monitoring the voltage of battery packs in an UPS, classified in class 324, subclass 429.

II. Claims 28-55, drawn to a cabinet-type housing for an UPS, classified in class 361, subclass 724.

III. Claims 57-59, drawn to an UPS, classified in class 307, subclass 66.

3. The inventions listed in groups I, II and III are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as apparatus and method (process) for its practice. The inventions are distinct if it can be shown that either:

a) the apparatus as claimed can be used to practice another and materially different process, or

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b) the method as claimed can be practiced by another materially different apparatus or by hand (M.P.E.P. 806.05(e)).

In this case, the method for monitoring the voltage of battery packs, as stated in group I, can be practiced by a different apparatus, such as one applicable to an automobile.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their recognized divergent subject matter and their different classification, restriction for examination purposes as indicated is proper.

5. Furthermore, if group II is elected, then a further restriction is required between:

A) Claims 28-52, drawn to a cabinet-type housing for an UPS, combination, classified in class 361, subclass 724.

B) Claims 53-55, drawn to a back panel for an electrical cabinet, subcombination, classified in class 174, subclass 52.4.

Inventions A and B are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP j 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the electrical cabinet can have a back panel that does not require connectors. The subcombination has separate utility such as a network test tool. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above, and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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7. A reply to this requirement must include an election of a single group for prosecution on the merits, even if this requirement is traversed (37 CFR 1.143). Any reply that does not include an election of a single group will be held nonresponsive. Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions, which are directed to the nonelected groups. Should applicant traverse this requirement on the grounds that the groups are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the groups to be obvious variations of one another. If the groups are determined not to be patentably distinct and they remain in this application, any rejection of one group over the prior art will apply equally to all other groups (See ***Ex parte Appeal*** No. 315-40, 152 USPQ 71 (Bd. App. 1965)). No argument asserting patentability based on the differences between the groups will be considered once the groups have been determined to comprise a single inventive concept. In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with ***Ex parte Heckman***, 135 USPQ 229 (P.O. Super. Exam. 1960).

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084. The Technology Center Fax number is (703) 872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

March 3, 2005

Pia Tibbits

Primary Patent Examiner

